

levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999).

This rule is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

The requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272) do not apply to this rule because it imposes no standards.

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report to Congress and the Comptroller General. However, section 808 provides that any rule for which the issuing agency for good cause finds that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest, shall take effect at such time as the agency promulgating the rule determines. 5 U.S.C. 808(2). EPA has made such a good cause finding, including the reasons therefor, and established an effective date of April 26, 2004. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 25, 2004. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purpose of judicial review nor does it extend the time within which petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not

be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Intergovernmental regulations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: April 12, 2004.

**Wayne Nastri,**

*Regional Administrator, Region IX.*

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**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[CA 304-0446a; FRL-7651-3]

**Revisions to the California State Implementation Plan, South Coast Air Quality Management District**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve revisions to the South Coast Air Quality Management District (SCAQMD) portion of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from several source categories such as aerospace manufacturing and coating, metal parts coating, wood products coating, and fiberglass composite manufacturing. We are approving a local rule that regulates these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

**DATES:** This rule is effective on June 25, 2004 without further notice, unless EPA receives adverse comments by May 26, 2004. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this direct final rule will not take effect.

**ADDRESSES:** Send comments to Andy Steckel, Rulemaking Office Chief (AIR-4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901,

or e-mail to [steckel.andrew@epa.gov](mailto:steckel.andrew@epa.gov), or submit comments at <http://www.regulations.gov>.

You can inspect copies of the submitted SIP revisions, EPA's technical support documents (TSDs), and public comments at our Region IX office during normal business hours by appointment. You may also see copies of the submitted SIP revisions by appointment at the following locations: Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, Room B-102, 1301 Constitution Avenue, NW., (Mail Code 6102T), Washington, DC 20460; California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 "I" Street, Sacramento, CA 95814; and, South Coast Air Quality Management District, 21865 East Copley Drive, Diamond Bar, CA 91765-4182.

A copy of the rule may also be available via the Internet at <http://www.arb.ca.gov/drdb/drdbtxt.htm>. Please be advised that this is not an EPA Web site and may not contain the same version of the rule that was submitted to EPA.

**FOR FURTHER INFORMATION CONTACT:** Jerald S. Wamsley, EPA Region IX, at either (415) 947-4111, or [wamsley.jerry@epa.gov](mailto:wamsley.jerry@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, "we," "us" and "our" refer to EPA.

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**I. The State's Submittal**

*A. What Rule did the State Submit?*

Table 1 lists the rule we are approving with the dates that it was adopted by the local air agencies and submitted by the California Air Resources Board (CARB).

TABLE 1.—SUBMITTED RULES

Local agency	Rule No.	Rule Title	Adopted	Submitted
SCAQMD .....	1132	Further Control of VOC Emissions from High-Emitting Spray Booth Facilities.	03/05/04	04/01/04

On April 8, 2004, EPA found this rule submittal met the completeness criteria in 40 CFR part 51 Appendix V. These criteria must be met before formal EPA review can begin.

*B. Are There Other Versions of This Rule?*

EPA incorporated a prior version of Rule 1132 into the SIP with a limited approval and limited disapproval (see 67 **Federal Register** (FR) 57957, September 13, 2002). This version of Rule 1132 was adopted by the SCAQMD Governing Board on January 19, 2001. There are no extant submittals of Rule 1132 beyond the submittal in today's action.

*C. What is the purpose of the submitted rule revisions?*

VOCs help produce ground-level ozone and smog, which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control VOC emissions. SCAQMD Rule 1132 is a rule designed to reduce VOC emissions at industrial sites engaged in high emitting spray booth operations such as aerospace manufacturing facilities, miscellaneous metal parts coating operations, wood products coating operations, and fiberglass composite manufacturing facilities. VOCs are emitted during the preparation and coating of the given substrate, as well as the drying phase of the coating process. Rule 1132 establishes a 65% VOC emission reduction requirement from controls in effect on January 19, 2001. This requirement may be met by add-on controls, coating formulation, or a combination of either technique.

SCAQMD's March 5, 2004, amendments to Rule 1132 included these significant changes to the January 19, 2001, version within the SIP.

- A definition was added for Approved Emission Factors that identifies the United Emission Factors for Open Molding of Composites (UEF), or any other emission factors approved by USEPA, CARB, and SCAQMD. The UEF have also been added to the rule in Attachment A.
- An equation was added that specifies how a composite manufacturer is to use the UEF in their Alternative Compliance Plan's (ACP) compliance demonstration. This equation excludes the use of the factor for non-atomizing gel coat applications until this factor is verified by further testing.
- The alternative compliance option requiring a 71.5% facility-wide control was deleted and replaced by the rule's standard 65% compliance

requirement. An ACP developed under this provision is subject to review and approval by USEPA, CARB, and SCAQMD.

- The compliance schedule for using an ACP was updated and clarified.
- A change of condition application must now be filed for spray booths operating under high flow rate and low VOC loading.

The TSD has more information about the rule.

**II. EPA's Evaluation and Action**

*A. How is EPA evaluating the rule?*

Generally, SIP rules must be enforceable (see section 110(a) of the Act), must require Reasonably Available Control Technology (RACT) for major sources in nonattainment areas (see section 182(a)(2)(A)), and must not relax existing requirements (see sections 110(l) and 193). The SCAQMD regulates an ozone nonattainment area (see 40 CFR part 81), so Rule 1132 must fulfill RACT.

Guidance and policy documents that we use to help evaluate specific enforceability and RACT requirements consistently include the following:

1. Portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044, November 24, 1987.
2. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations," EPA, May 25, 1988 (the Bluebook).
3. "Guidance Document for Correcting Common VOC & Other Rule Deficiencies," EPA Region 9, August 21, 2001 (the Little Bluebook).

*B. Does the rule meet the evaluation criteria?*

We believe Rule 1132 is consistent with the relevant policy and guidance regarding enforceability, RACT, and SIP relaxations. This rule improves the SIP by seeking additional VOC emission reductions from these high VOC emitting facilities beyond a baseline established by the SCAQMD regulations in place on January 19, 2001.

In our September 13, 2002, final action, we identified Rule 1132 provisions which did not meet the evaluation criteria. SCAQMD has remedied these two deficiencies. First, section (d)(1) was revised to include approved emission factors and an estimation protocol for composite manufacturers to use in demonstrating compliance. Second, section (d)(3) delimits "director's discretion" by allowing for CARB and EPA review of ACPs submitted under this provision. However, the amendment to section

(d)(3) removes the requirement for a 71.5% emission reduction and replaces it with the rule's standard 65% requirement; consequently, this amendment warrants further discussion.

The amendment to section (d)(3) does not represent a weakening of the SIP for several reasons. First, since there was no way to determine initially how many firms, if any, would use this compliance option, the SCAQMD SIP did not take credit for the 6.5% emission reduction difference. Second, since initial rule adoption on January 19, 2001, no sources have used this compliance option; so, there is no resulting increase in VOC emissions due to this amendment. Third, should EPA's Economic Incentives Rule apply to a given ACP, then EPA can require that ACP include an added 6.5% VOC emission reduction requirement. Finally, the amendment allows for CARB and EPA review of ACPs submitted under this provision; thus, removing the enforceability problems related to "director's discretion" that existed in the prior version of the rule.

The TSD has more information on our evaluation.

*C. EPA Recommendations To Further Improve the Rule*

The TSD describes additional rule revisions that do not affect EPA's current action but are recommended for the next time the local agency modifies the rules.

*D. Public Comment and Final Action*

As authorized in section 110(k)(3) of the Act, EPA is fully approving the submitted rule because we believe it fulfills all relevant requirements. We do not think anyone will object to this approval, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rules. If we receive adverse comments by May 26, 2004, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on June 25, 2004. This action will incorporate this rule into the federally enforceable SIP and end all sanctions and Federal Implementation Plan obligations associated with our September 13, 2002 action.

### III. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus

standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. section 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 25, 2004. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: April 12, 2004.

**Wayne Nastri,**

*Regional Administrator, Region IX.*

■ Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

### PART 52—[AMENDED]

■ 1. The authority citation for Part 52 continues to read as follows:

*Authority:* 42 U.S.C. 7401 *et seq.*

#### Subpart F—California

■ 2. Section 52.220 is amended by adding paragraph (c)(324) to read as follows:

#### § 52.220 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(324) Amended regulation for the following AQMD was submitted on April 1, 2004, by the Governor's designee.

(i) Incorporation by reference.

(A) South Coast Air Quality Management District.

(1) Rule 1132, adopted on January 19, 2001 and amended on March 5, 2004.

[FR Doc. 04-9282 Filed 4-23-04; 8:45 am]

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### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Parts 52 and 81

[AZ 116-0059a; FRL-7651-1]

#### Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Arizona

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving the maintenance plan for the Morenci area in Greenlee County, Arizona and granting the request submitted by the State to redesignate this area from nonattainment to attainment for the National Ambient Air Quality Standards (NAAQS) for sulfur dioxide (SO<sub>2</sub>). Elsewhere in this **Federal Register**, we are proposing approval and soliciting written comment on this action; if adverse written comments are received, we will withdraw the direct final rule and address the comments received in a new final rule; otherwise no further rulemaking will occur on this approval action.

**DATES:** This rule is effective June 25, 2004, without further notice, unless we receive adverse comments by May 26, 2004. If EPA receives adverse comments, we will publish a timely withdrawal in the **Federal Register** and inform the public that this rule will not take effect.

**ADDRESSES:** Please mail or e-mail your comments to Wienke Tax, Air Planning